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FISCAL IMPACT STATEMENT

LS 7438

BILL NUMBER: SB 555

NOTE PREPARED: Feb 24, 2009

BILL AMENDED: Feb 19, 2009

SUBJECT: Sale of Firearms to Mentally Ill Persons.

FIRST AUTHOR: Sen. Bray

FIRST SPONSOR: Rep. Tincher

BILL STATUS: As Passed Senate

FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) The bill requires the Division of State Court Administration to establish and administer an electronic system for: (1) receiving information that relates to certain individuals who may be prohibited from possessing a firearm; and (2) transmitting this information to the Federal Bureau of Investigation for inclusion in the federal National Instant Criminal Background Check System (NICS).

The bill also provides that, if a court makes an adjudication or a finding concerning a person's mental health that may disqualify the person from possessing a firearm, the court shall transmit certain information concerning the finding or adjudication to the Division of State Court Administration for transmittal to NICS.

This bill also establishes a procedure by which a person who has been released from commitment or who has completed treatment may have the person's disqualification to possess a firearm removed. It makes other changes and conforming amendments.

Effective Date: July 1, 2009.

Explanation of State Expenditures: (Revised) *Submitting Information to NICS:* The bill requires the Division of State Court Administration (DSCA) to receive and transmit information regarding people who are to be included in the National Instant Criminal Background Check System that is managed by the Federal Bureau of Investigation (FBI). This will increase the workload of the DSCA. Increases in workload will depend on the number of notices sent to DSCA that are required to be forwarded to the FBI.

Division of State Court Administration System Establishment: The requirement that DSCA establish the electronic system presents no additional fiscal impact to the state. ISP and DSCA report that an electronic

system that is designed to transmit information to NICS has already been planned and would be operated by the Judicial Technology and Automation Center (JTAC). Both DSCA and ISP will have access to the system and will be able to transmit the necessary information to NICS. The one-time start-up cost for the system is budgeted at \$184,000, and an additional \$45,000 would be required in order to allow ISP to interface and access the system. DSCA reports they will finance their part of the system from federal grants DSCA has received for the Protection Order Registry program. ISP reports they will require additional resources to finance their part of the system.

(Revised) *Department of Corrections:* Under the bill, DOC is required to transmit required information to DSCA for inclusion in NICS. Actual increases in workload will depend on the number of individuals who are involuntarily transferred to DMHA for treatment, but are expected to be minimal. DOC reports that information on the number of offenders who are involuntarily transferred to DMHA for treatment is not collected, but this occurs very infrequently.

The bill also provides for a NICS appeal process for individuals who were included on the database that would limit their ability to purchase or possess a handgun. Individuals that were involuntarily transferred from DOC to DMHA for treatment are authorized to appeal information included in the NICS database. If a person is no longer deemed a danger to others or to act in a manner dangerous to public safety, and the requested relief is not contrary to the public interest, DOC is required to transmit required information to DSCA for inclusion in the NICS. Actual increases in workload will depend on the number of individuals who petition DOC for an appeal, are granted a hearing, and are no longer deemed a threat.

Background Information: The National Instant Criminal Background Check System (NICS) is a system that was put in place in accordance with the federal Brady Gun Law. This database maintains a list of individuals that are considered ineligible for the purchase of handguns. In order to sell a handgun, handgun sellers/distributors in Indiana must run a purchase applicant's name through the NICS and receive approval from the NICS that the person is authorized to buy and possess a handgun. The penalty for violating the Brady Law in Indiana by a handgun seller/distributor is a Class A misdemeanor.

Explanation of State Revenues:

Explanation of Local Expenditures: (Revised) The bill also provides for a NICS appeal process for individuals who were included on the database that would limit their ability to purchase or possess a handgun. Individuals are authorized to petition local courts to review information regarding their case. If a person is no longer deemed a danger to others or to act in a manner dangerous to public safety, and the requested relief is not contrary to the public interest, the court is required to transmit the information to DSCA for inclusion in NICS. Actual increases in workload will depend on the number of individuals who petition the court for an appeal and are granted a hearing.

Explanation of Local Revenues:

State Agencies Affected: ISP; DSCA; DOC; JTAC.

Local Agencies Affected: Local courts.

Information Sources: Jeff Wardlow, ISP; Mary DePrez, DSCA; Patrick Hess, JTAC.

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